

**CITY OF ISSAQUAH  
DEVELOPMENT SERVICES DEPARTMENT**

**NOTICE OF RECOMMENDATION**

**TO:** Taylor and Erika Wolfe  
4826 242<sup>nd</sup> Ave SE  
Issaquah, WA 98029

James Merrill  
Merrill Design Group  
485 Rainier Blvd North  
Issaquah, WA 98027

**SUBJECT: WOLFE RESIDENCE**

**APPLICATION: SHO18-00001**

**DATE OF RECOMMENDATION:** September 25, 2018

**REQUEST:** Shoreline Variance Permit for Single Family Residence with Accessory Dwelling Unit

**PROJECT DESCRIPTION:**

Shoreline variance to reduce wetland buffers to support construction of a single-family residence. The property is entirely covered by critical areas of wetlands, streams, and their associated buffers. The requested variance will retain 82% of the site in permanently preserved critical areas. Approximately 27,000 square feet of wetlands and buffers will be replaced and/or enhanced with native plants. The single-family house will be 3,073 sf with a 966 sf accessory dwelling unit (ADU) with a total of less than 5,000 sf of impervious surface covering the property.

The property lies in the Issaquah Creek Urban Conservancy environmental area and the Single Family – Suburban (SF-S) zoning district. The property is also within a FEMA NFIP Floodplain AE area.

**LOCATION:** 1016 2<sup>nd</sup> Avenue SE, Issaquah, WA 98027

**RECOMMENDATION MADE:** Recommendation of approval to the Decision Maker, the Washington State Department of Ecology, (DOE), of this application is based on application materials and supporting technical studies listed as Exhibits 1 through 14 and subject to the following conditions:

1. Construction shall not start until construction permits are first issued by the City, including Building and Site Work Permits.

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2. The applicant shall comply with the Mitigated Determination of Nonsignificance issued on July 6, 2018. All of the mitigations of the SEPA Mitigated Determination of Significance must be met. Those mitigations include:
  - a) The buffer enhancement plans shall meet the requirements of the King County "Critical Areas Mitigation Guidelines." This may require minor revisions to the planting density and performance standards on the mitigation plans submitted with the variance application. Final enhancement plans shall be approved by the Development Services Department prior to issuance of construction permits. The planting enhancement shall be installed prior to final approval of the building permit.
  - b) Prior to issuance of the building permit, the buffer enhancement plan shall be revised to include:
    - 1) Large trees located far enough away from the proposed residence to avoid creating future hazard trees.
    - 2) A dense, native herbaceous community in the inner (eastern) ten feet of the flow path, with woody species that are tolerant of saturated conditions (i.e. Scouler's or Sitka willow) in the outer 15 feet.
    - 3) Depiction of the stormwater dispersion and flow path on the mitigation plans, removal of the pervious pavers north of the garage, updated impacts and mitigation calculations to include dispersion trenches and removal of the pervious pavers as buffer impacts.
  - c) The applicant shall have the consulting wetland biologist verify final site conditions, the plant materials, and plant locations/spacing prior to installation. The applicant shall also have the consulting wetland biologist verify the enhancement planting has been installed per the approved plans and provide as-built plans after installation.
3. The buffer enhancement plans shall meet the requirements of the King County "*Critical Areas Mitigation Guidelines*." This may require minor revisions to the planting plant density and performance standards on the mitigation plans submitted with the variance application. Final enhancement plans shall be approved by the Development Services Department prior to the issuance of construction permits. The planting enhancement shall be installed prior to the final approval of the building permit.
4. The application shall minimize impacts by revising the plans prior to construction permit issuance as follows:
  - a) Eliminate the Pervious Paver Parking of approximately 315 square feet at the north end (already included in the SEPA MDNS);
  - b) Minimize the paved driveway by reducing the backup space behind the garages to no greater than 24 feet;
  - c) Reduce the north yard to approximately 10 feet wide from the building to the north NGPE;
  - d) Reduce the roof overhang from 18" to 15";
  - e) Provide additional storm water detention measures such as rainwater catchment of approximately 200- 500 gallons;
  - f) Expand the mitigation area to include enhancement of the wetland at the north end of the site (currently no enhancement is proposed). To the extent there is any open area available to plant natives, supplement this area with native trees at a density no greater

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than 1 tree every 10' on center and shrubs and/or willow stakes at 6' on center. The specific planting plan shall be determined by a wetland professional and approved by the city prior to construction permit issuance.

5. A detailed geotechnical report shall be submitted with the building permit application. The field investigation and geotechnical report shall be based on building drawings. A soils report shall include specific recommendations including possibility for onsite infiltration measures of stormwater. The geotechnical report may be subject to two independent peer reviews of the geotechnical report and the building foundation. The City shall select qualified professionals to conduct the peer reviews. The applicant shall be responsible for the cost of the independent reviews. The independent reviews may result in additional conditions being applied to the construction permits.
6. The environmentally critical area including the stream, wetlands and buffers shall be protected as required by the Critical Areas Ordinance, including IMC 18.10.460, 480, 515, generally as follows:
  - a) Prior to issuance of construction permits (Building and Site Work Permits), the applicant shall prepare for City review and record a Native Growth Protection Easement (NGPE) for the area outside of the defined development limits on the site as follows, or similar thereto

*The Sensitive Area Tract conveys to the public a beneficial interest in the land within the sensitive area tract. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of stream, wetlands and buffers, and protection of plant and animal habitat. The sensitive area tract imposes upon all present and future owners and occupiers of the land subject to the tract the obligation, enforceable on behalf of the public by the City of Issaquah, to leave undisturbed all trees and other vegetation within the tract. The vegetation within the tract may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the City of Issaquah or its successor agency, unless otherwise provided by law. The City, when permitting the cutting, pruning or removal of living or dead vegetation, shall consider demonstrated health and safety concerns*

- b) Temporary Fencing: Prior to any site disturbance or construction activity, the location of the outer extent of the critical area buffer and building setback line as established by an approved construction permit, shall be marked in the field with orange construction fencing or other City approved material. The location of the markings shall be approved by the Development Services Department and may require a professional survey. Markings shall be maintained for the duration of construction activities.
  - c) Temporary Signs: Prior to any site disturbance or construction activity, signs shall be placed at regular intervals along the construction fencing as approved by the Development Services Department with notice of the critical area location and disturbance restrictions. The signs shall contain language similar to: "Wetland and Stream Protection Area DO NOT DISTURB Questions? Call: City of Issaquah 425-837-3100". See the Development Services Department for samples.

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- d) Prior to final inspection approval, place permanent survey stakes using iron or cement markers delineating the critical area buffer boundaries.
  - e) Prior to final inspection approval, place permanent signs at the critical area buffer boundary at regular intervals in accordance with IMC 18.10.515 as approved by the Development Services Department explaining the critical area location, disturbance restrictions, and type and value of the critical area. See the Development Services Department for samples.
  - f) Prior to final inspection approval, post a maintenance/monitoring cash deposit for all critical area mitigation installations in the amount of 50% of the value of the estimated maintenance and monitoring cost. The cash deposit shall include the cost of the plants, installation labor, monitoring, and maintenance and shall be held for a period of 5 years.
  - g) Prior to final inspection approval, post a Performance Bond addressing mitigation required pursuant to a development proposal that must be completed prior to the City's granting of final approval of the development proposal. If the applicant demonstrates that seasonal requirements or other circumstances beyond its control prevent completion of the mitigation prior to final approval, the applicant may post a performance bond equal to one hundred fifty (150) percent of the total cost of the mitigation project to complete, or other security instrument which guarantees that all required mitigation measures will be completed no later than the time established by the City in accordance with this chapter.
  - h) A monitoring report of the mitigation project shall be completed annually for a period of 5 years. The monitoring shall be completed by a private critical area professional. Reports shall be submitted with the professional's signature and/or professional license stamp to the Development Services Department on or before November 1<sup>st</sup> of each year. The contents of the report shall be as outlined in the approved Critical Area Study, but at a minimum shall meet the King County Mitigation Guidelines for monitoring reports to include: percent of survival, percent of invasive species, comparison with performance objectives, corrective measures and timetable.
  - i) Prior to final inspection approval, a split rail fence separating the approved development area and the buffers shall be installed per the mitigation plan approved by the Development Services Department.
7. Prior to issuance of construction permits (Building and Site Work Permits), the plans shall be revised as needed to comply with the current stormwater manual.
8. At the time of Building Permit issuance, all applicable impact fees shall be paid, including School Impact Fees, Parks Impact Fees, Transportation Impact Fees, and Fire Impact Fees.
9. A Flood Hazard Permit is required to be issued along with construction permits. The flood hazard permit shall include a certification by a licensed civil engineer registered in the State of Washington that compensatory storage is provided and the hydraulic capability of the floodplain is preserved on-site to convey floodwaters through the property without affecting adjacent properties. The permit shall also identify the minimum floor and utility elevation to at least one foot above project 100-year floodplain water elevation and submit a FEMA Habitat Assessment documenting potential effects to ESA-listed fish species and any required mitigation.

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10. Prior to final inspection approval, the applicant shall:
  - a) Provide a flood elevation certificate prepared by or under the direct supervision of a Washington State licensed professional land surveyor is submitted and approved by the City prior to a final inspection, or a floodproofing certificate prepared by a Washington State licensed engineer or architect is submitted and approved (nonresidential buildings only).
  - b) All mitigation identified by the habitat impact assessment pursuant to IMC 16.36.120(K) has been completed. The Director may accept a financial guarantee, in an amount determined by the Director, to ensure completion of such mitigation following issuance of certificate of occupancy.
11. Lighting, if any, shall be limited to that necessary for pedestrian safety, low-level, shielded and directed away from the stream, wetlands, and buffers so there is no light entering these areas consistent with IMC 18.07.107.
12. Prior to issuance of construction permits, the plans shall be revised to show plan details showing loosening of all compacted soils due to prior fill and/or compaction of the site to allow the new plants to thrive.
13. Prior to final inspection approval of the Accessory Dwelling Unit, the owner must file an affidavit with the King County Department of Records and Elections and provide a copy to the Development Services Department reflecting that the home or the accessory dwelling unit must be occupied by an owner of the property or a family member of the property.

Note: The Applicant is encouraged to contact the owner of 1035 6<sup>th</sup> Avenue SE to jointly consider modifying the utility easement across 1035 6<sup>th</sup> Avenue SE to clarify, as needed, the rights and responsibilities of each party and record an amended easement, if desired. The city has easement language available to aid this clarification, if desired.

**REASONS FOR DECISION:**

- A. Permit Review Process: The Shoreline Master Program (SMP) applies because an associated wetland of Issaquah Creek is located on this site and therefore the site is included in the shoreline jurisdiction. Figure 1 below shows the Shoreline Master Program-mapped associated wetland covering the entire site. However, the "Official Shoreline Map does not necessarily identify or depict... associated wetlands" (p.29 of the SMP)." Figure 2 shows the mapped wetland boundary from the project's wetland report. It shows less wetland, but still wetland upon much of the site.

The site is totally encumbered with a wetland, stream, and their associated buffers. There is no development area on site outside these environmental constraints or encumbrances. A Shoreline Variance Permit is required because the project does not comply with the bulk, dimensional and/or performance standards of the Shoreline Master Program.

Section 8.2.5.2 of the SMP states that a "Shoreline Variance shall follow the provisions in this section and other applicable sections of the Shoreline Master Program. A Reasonable Use Variance under the Critical Areas Regulations IMC 18.10.430, shall not apply within

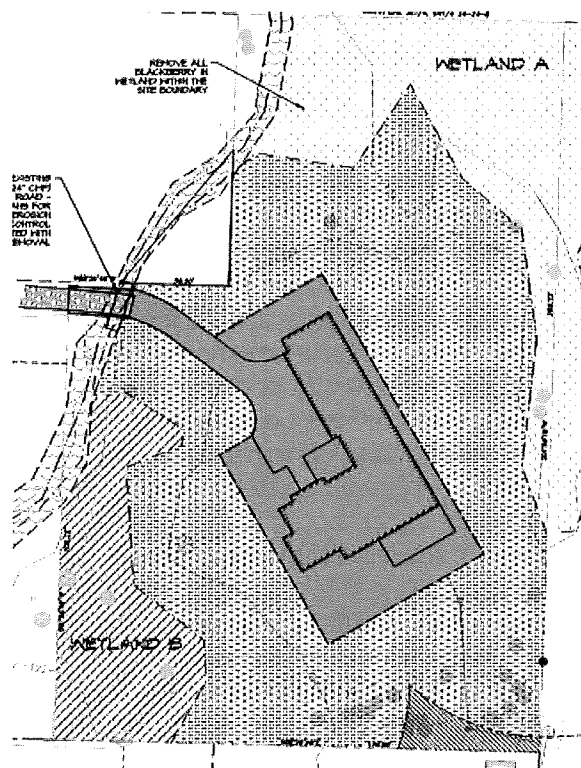
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shoreline jurisdiction. A variance shall require review, pursuant to IMC 18.04 Procedures. The Department of Ecology shall be the final approval authority under WAC 173-27-200.

**Figure 1: Shoreline Master Program-mapped wetland**



**Figure 2: Project-mapped wetland, Altmann Oliver Associates**



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1. A Shoreline Variance Permit is a Level 2 review per IMC Table 18.04.100-1. A Level 2 review is an administrative process and requires notice to adjacent property owners within 300 feet of the proposal and to Parties of Record. The Notice of Application was sent on March 2, 2018.

There was a 30-day comment period associated with the Notice of Application; from March 2, 2018 to April 2, 2018. Comments were received and are addressed below.

2. The River and Streams Board held a public meeting on March 20, 2018 to discuss the proposal. Several neighbors attended and provided comments that are addressed below.
3. SEPA Environmental Review: This project is subject to SEPA review because it is located within an environmentally critical area including a wetland and stream. A SEPA Environmental Checklist was submitted along with special environmentally critical area studies. Staff added review notes to the SEPA Checklist. A Mitigated Determination of Nonsignificance (MDNS) was issued on July 6, 2018. There was a 21-day combined comment/appeal period for this determination, between July 6, 2018 and ending on July 27, 2018. No appeals were received. Comments were received and are addressed below.

B. Public Comments and Responses:

- 1) *Development will increase stormwater impacts to properties to the east.*

Response: The project is designed so that water runoff from the home and the paved driveway will flow to the yard on the west side of the house, away from the eastern properties. Downspouts and pavement will be directed to a dispersion trench west of the driveway and then sheet flow across the yard into the stream on the west property boundary. The stream continues to flow west away from the property. Also because the development is in the flood plain, the development must be designed to comply with flood hazard regulations, including designs so that no additional floodwaters will impact adjacent properties. This will be accomplished by allowing no net fill of the property and providing openings in the foundation so that waters will continue to flow through the development and not be pushed to neighboring properties. The peer review of the critical area study looked at this issue and concluded this design is sufficient to prevent additional waters from being pushed to the eastern properties. A flood hazard permit is required with construction permits to confirm the project complies with flood hazard regulations.

- 2) *Utility installations will impact the southeast neighbor's property at 1035 6<sup>th</sup> Avenue SE.*

Response: After investigation and working with utility agencies, the applicant concluded the following connections will eliminate impact to this neighbor's property as follows:

Sewer: Connect to the existing side sewer at the Wolfe property southeast corner.

Water: The water meter is on 6<sup>th</sup> Avenue SE adjacent to 1035 6<sup>th</sup> Avenue SE; an existing 1" waterline exists underground from the meter to the Wolfe property southeast corner and will be connected at that point.

Power, Gas, Phone, Cable: Are all accessed via Nyberg (Carpenter) Lane and cross the creek through existing 3" conduits.

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Based on this information, impacts to neighbors for utility provision are anticipated to be minor to none at all.

- 3) *The existing water easement language across 1035 6<sup>th</sup> Avenue is unclear regarding specific responsibility of rights to use the easement, maintenance responsibility, and related issues.*

Response: The applicant stated in an email dated 4-18-2018 their willingness to append the existing easement language to provide the clarity being requested. After review, the city does not have authority to require as a condition that this easement be changed. However a note, following the conditions, is added encouraging the two owners to work together, if they choose, to clarify the easement. The city has easement language available to use as a guide, if desired.

SEPA MDNS comments and responses:

- 4) *Who filled out the SEPA Environmental Checklist There are some areas that are blank (animals seen in the area) and it does not mention the wet pond like area that may receive some of the house run off besides the creek.*

Response: The applicant filled out the SEPA Environmental Checklist. In developing our environmental determination (MDNS or Mitigated Determination of Nonsignificance), city staff uses available information to develop the MDNS including our understanding of the property from our visits, the input of the public including your comments, the peer review by our consulting scientists, and the plans and information provided by the applicant including the SEPA Environmental Checklist.

We understand there is an impact to the wildlife however the impact is lessened or mitigated with the proposed planting plan. The planting plan shows planting of many native trees, shrubs, and groundcover to improve the existing condition to mitigate impacts as best as possible to wildlife while also allowing the applicant to construct a home on this property.

Regarding stormwater, we are aware of the wet pond east of the proposed home. We have worked with the applicant to minimize impacts to this wet area. The MDNS contains a condition to change the planting in the dispersion flow path on the west side of the house to smaller groundcover and shrubs to improve functions to better allow the water to flow through this area more freely.

The SEPA Environmental Checklist has been annotated by city staff to recognize missing information such as is noted above. A copy of this Checklist is being forwarded to DOE for their review.

- 5) *Will there still be a neighborhood meeting regarding this project?*

Response: Another neighborhood meeting is not a requirement of this permit process, however city staff are available to meet with neighbors or other interested people to talk through any questions or issues there may be.

- 6) *Muckleshoot Indian Tribe: From our records, the property received a HPA (125127) as part of the Nyberg LLC proposal and later as 125127-2 by Jerr Benn homes along with a utility crossing of the stream. It is not clear that the culvert was replaced or the utility line*



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*installed as described in 125127-2. More information is needed that should describe if this previous work was completed. If not, then it should be included with a revised SEPA determination.*

Response: A Hydraulic Permit Approval (HPA) was issued by the Washington State Department of Fish and Wildlife on October 28, 2011. A site inspection by city staff on September 24, 2018 confirmed the culvert has been installed consistent with the HPA permit. Earlier the applicant confirmed a 3" conduit is in place over the creek to accept utilities. Also on September 24, 2018 staff confirmed the existence of a 3" white plastic conduit.

- 7) *The Muckleshoot Indian Tribe requests a copy of the mitigation plan "as-built" drawings and the monitoring reports to demonstrate that the wetland enhancement and buffer enhancement work described in the MDNS and the Wetland Variance Assessment report from Altmann Oliver was completed.*

Response: "As-built" drawings and monitoring reports will occur in the future after construction is complete. The city is certainly willing to share this information at the time this information becomes available in the future.

- 8) *Snoqualmie Indian Tribe: The applicant says the building must be large in order to cover the costs of developing the property, since it is more expensive to develop an encumbered property. But the encumbrances are to protect the resource from the permanent impacts of development, and the larger the development footprint, the greater the impact to the resource. This is a perverse sort of justification. The applicant chose to purchase an encumbered property. The impacts to the resource from development have a cost, and the cost of the impacts will then be borne by those who depend on the resource, for example, Tribes, or the public who rely on flood attenuation, water quality, etc. We recommend reducing the development footprint in order to reduce its impacts. Unencumbered parcels or partially encumbered parcels should not be considered comparable properties, and purported high costs to develop an encumbered property that was willfully acquired in 2016 should NOT be used to justify not reducing the development footprint.*

Response: The Tribe makes good points. The city's recommendation is based on the variance criteria discussed below. The costs of developing property are not a specific criteria and are not specifically considered in developing the recommendation. In developing our recommendation of "reasonable use" of this property we have requested reductions in the development footprint including removal of the permeable pavement at the north end of the house (approximately 315 square feet), reducing the driveway pavement (approximately 300 square feet) as much as possible including grass driveway strips, reducing the north yard (approximately 100 square feet), reducing roof overhang (approximately 100 square feet). To reduce potential drainage impacts the applicant is willing to install an additional drainage swale (where?) and rain barrels and similar stormwater mitigation methods if they will further reduce water runoff impacts. Finally, the applicant proposes to increase the mitigation enhancement area to include the north wetland area that currently does not have proposed mitigation. The combination of these reductions together with increases in stormwater runoff measures and increased mitigation help the city arrive at a conclusion that the variance criteria are being met.

C. Shoreline Master Program (SMP) – Shoreline Variance Permit:

The Wolfe property, at 1016 2<sup>nd</sup> Avenue SE, is located in the *Issaquah Creek Urban Conservancy* Shoreline Environment designation. Single-family use is permitted in this designation.

The following SMP policies and regulations apply to the current proposal:

**5.1. Shoreline Use**

**5.3.1 Policies**

2. *The design, density and location of all allowed uses and developments should reflect physical and natural features of the shoreline and should assure no net loss of ecological functions by avoiding and minimizing adverse effects on shoreline ecology.*

**5.6 Critical Areas, Environmental Protection and Shoreline Buffers**

**5.6.1 Policies**

1. *The City should preserve, enhance, and/or protect critical areas in shoreline jurisdiction for their ecological functions and values, as well as their aesthetic, scenic, and educational qualities.*
2. *This Program should provide a level of protection to critical areas within the shoreline that is at least equal to the standards provided in the City's critical area regulations, adopted pursuant to the Growth Management Act.*
3. *All shoreline use and development should avoid and minimize adverse impacts to ensure no net loss of ecological functions and processes from current conditions. Shoreline ecological functions that should be protected include hydrology, water quality, riparian habitat, and in-stream habitat functions. Shoreline processes that should be protected include surface and groundwater flow, channel migration, sediment delivery, water quality and organic inputs.*
4. *Project-specific and cumulative impacts should be considered in assessing the potential for net loss of ecological functions and processes.*
5. *The City should require mitigation proportionate and related to the expected impacts of the proposed development.*

**5.6.2 Regulations**

10. *Shoreline buffers shall be maintained in a predominantly natural, undisturbed, undeveloped, and well-vegetated condition except as specifically provided for in this Section and Chapters 6 and 7 of this Program. Buffers shall consist of native woody trees and shrubs that contribute to habitat quality and ecological functions and comply with the Shoreline Vegetation regulations and other provisions of this Program. Buffers may be modified only as specified in this Program.*

Response: The development, as conditioned, will maintain, if not enhance the *ecological functions and values* of the wetland, stream and buffers through significant planting of native plants throughout the site. The project, as conditioned, finds a balance between reasonable use of the property and minimizing adverse impacts to ensure no

net loss of ecological functions and processes from existing conditions. The owner will be required to protect the wetland, stream and buffers in a natural state in perpetuity.

### **5.7 Shoreline Vegetation Conservation**

#### **5.7.1 Policies**

1. *All new shoreline development and/or uses should retain existing native shoreline buffer vegetation, with the overall purpose of protecting and maintaining functions and processes. Important functions of shoreline buffer vegetation include: stabilizing banks and attenuating erosion, providing shade to maintain cool temperatures, removing sediments and excessive nutrients, providing habitat for terrestrial and aquatic wildlife, and providing woody debris and other organic material inputs.*

#### **5.7.2 Regulations**

3. *Following permitted surface disturbances, disturbed areas shall be revegetated using plant species approved by the City that are of a similar diversity and type to that occurring in the general vicinity of the site.*

Response: The development includes a significant native planting plan that will improve the condition of the critical area vegetation.

### **5.8 Flood Hazard Reduction**

#### **5.8.1 Policies**

1. *Flood protection should be managed in accordance with the City's Areas of Special Flood Hazard ordinance, stormwater management regulations, critical area regulations and the National Flood Insurance Program.*

#### **5.3.2 Regulations**

1. *All development in the shoreline shall comply with the City's Areas of Special Flood Hazard ordinance (IMC 16.26), Stormwater Management Policy (IMC 13.28), Critical Area Regulations (IMC 18.10), and the National Flood Insurance Program.*
2. *Development in FEMA designated floodplains and floodways, channel migration areas, and/or riparian buffers shall be required to demonstrate no adverse impact on habitat for fish species listed as threatened or endangered under the federal Endangered Species Act.*

Response: The home will be required to be designed to meet the requirement not to affect adjacent properties with additional flood waters and to establish at least 1 foot first floor above the base flood elevation and to evaluate impacts to ESA listed salmonids. A flood hazard permit is required to confirm compliance with all flood regulations.

## ***Issaquah Creek Shoreline Policies and Regulations (Chapter 7 of the SMP)***

### ***7.2 Residential Use and Development***

#### **7.2.1 Policies**

2. *Residential development should be designed to preserve existing shoreline vegetation, control erosion, protect water quality using best management practices and to utilize low*

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*impact development techniques where appropriate.*

3. *Accessory structures such as accessory dwelling units, swimming pools, sport courts and other structures should be located and designed to minimize impervious surface and be visually and physically compatible with adjacent shoreline features.*
4. *New residential development should provide adequate building setbacks and natural vegetated buffers to protect and restore ecological functions and processes, to preserve views and to minimize use conflicts.*
7. *Residential development should at a minimum achieve no net loss of ecological functions necessary to sustain shoreline natural resources, even for developments that do not require a Shoreline Substantial Development Permit.*

Response: As stated above, the project will restore and enhance the critical areas to improve natural vegetation throughout the site. The accessory dwelling unit is located above the garage to minimize the spread of development into the critical areas. No net loss of ecological functions will be achieved with this development.

### **7.2.2 Use Regulations**

1. *All residential use and development shall comply with the standards included in Table 2 in Chapter 4.*

Response: Table 2 of the City of Issaquah Shoreline Master Program provides the development standards for Shoreline Environments. For the Issaquah Creek Urban Conservancy, the development standards for single family development includes a maximum building height of 35 feet, maximum impervious surface of 40%, and zoning setbacks of 20'-front, 8'-sides, and 10'-rear. All of these standards are easily met. As discussed throughout this report, the shoreline and critical area buffers are addressed through this variance permit.

8. *All residential development proposals shall be accompanied by a plan indicating methods for erosion control during and following construction in accordance with the City's Erosion and Sedimentation Control Ordinance.*

Response: The construction permits (Building and Site Work Permit) will take the existing stormwater plans to a higher level of detail to show full compliance with stormwater regulations. This will include proper Temporary Erosion and Sedimentation Control (TESC) and permanent stormwater facilities to address neighbor concerns of additional water impacts.

### **8.2.5 Shoreline Variance**

1. *A development or use that does not comply with the bulk, dimensional and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.*
3. *The purpose of a shoreline variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict City of Issaquah February 2013 Shoreline Master Program 103 implementation of this Program would impose*

*unnecessary hardships on the applicant/proponent or thwart the policies set forth in RCW 90.58.020.*

6. *A variance from the standards of the master program may be granted only when the applicant can demonstrate that all the following conditions will apply:*

- a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;***

Applicant Response: The property is fully encumbered by wetlands, wetland setbacks, and critical area setbacks as shown by the survey with wetlands delineation; therefore, under standard code, no single family residential building could be developed.

City Response: All of the property is encumbered with the Critical Areas of wetlands and a stream plus their associated critical area buffers and building setbacks to those buffers. The strict application of the bulk, dimensional or performance standards leaves no reasonable use of the property.

- b. That the hardship described in (1) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;***

Applicant:

1. The hardship is specifically related to the unique conditions of the stream, wetlands, and buffers on the property.
2. The land was cleared and graded in years prior (at the time, the clearing and grading work did not violate any City or County regulations).
3. The City of Issaquah approved a short plat which included this property as a buildable lot in 2005.
4. The current owners have done no harm to or work on the property since its purchase and are following all prescribed rules and regulations in seeking their permits.

City: The hardship is specifically related to the presence of critical areas and their associated buffers and setbacks. It is not a result of a deed restriction or the applicant's own actions, or similar actions not specific to the property.

- c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;***

Applicant: The proposed land being is surrounded by residential developments and is zoned SF-S by City of Issaquah. The design of the project meets all requirements of SF-S zoning regulations and is in line with other adjacent properties.

The project has been specifically designed to mitigate any impact to the adjacent

shoreline or stream. A civil engineering firm has designed the drainage plan to allow rain water to be distributed and flow back into the stream at the same rate as natural infiltration would occur. The location of the home placement within the property is currently compacted soil from previous disturbance (not by current owner), so the designed drainage will improve flow into the stream.

City: The design of the project is compatible with other authorized uses, the Comprehensive Plan, and the Shoreline Master Program. The single family use is permitted by both the comprehensive plan (and implementing SF-S zoning code) and the Shoreline Master Program. The single family use is compatible with the majority of surrounding land uses that consist of primarily single family uses and one nearby religious facility. The proposal, as conditioned, will not cause adverse impacts to the shoreline environment. Some development elements that will mitigate potential environmental impacts include a stormwater dispersion system to mimic existing flows, elevation of the home with foundation openings to prevent flood impacts to surrounding properties, enhancement of degraded wetlands and wetland and stream buffers with soil amendments and significant native plantings.

***d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;***

Applicant: Granting of the variance will not constitute special privilege. There are new home developments immediately adjacent to the property that have been built within the past five years, when the land use conditions were not materially different than today. Both properties are adjacent to wetland and/or wetland buffers.

1. The property at 1003 6<sup>th</sup> Ave SE was built in 2013 and has 3,880 sq ft of living space
2. The property at 1035 6<sup>th</sup> Ave SE was built in 2013 and has 3,550 sq ft of living space

City: All of the uses in the vicinity of the proposed development are detached single family dwellings except a parcel developed with a church to the east of the site. A few of these existing homes are also on lots with stream or wetland buffers. Most of these houses were built prior to adoption of the City's Critical Areas Regulations in the early 1990's. However the two houses to the east have been developed in recent years and were adjusted to address critical areas including significant native planting of the critical area, similar to what is proposed with this project. The variance does not constitute a grant of special privilege not enjoyed by other properties in the area.

***e. That the variance requested is the minimum necessary to afford relief;***

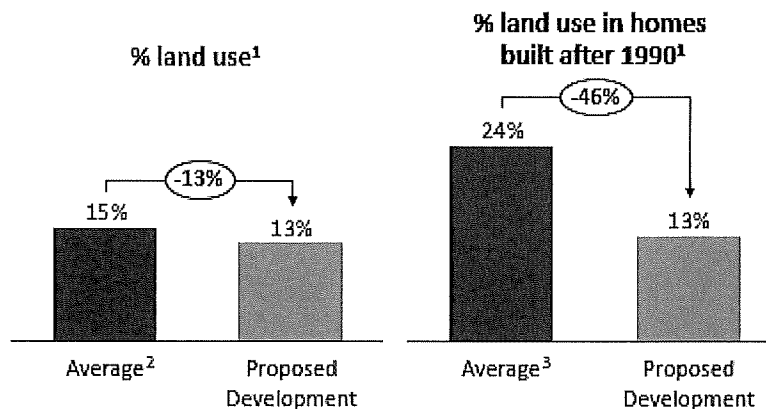
Applicant:

The development for the property was designed with the intent to minimize the impact to the surrounding areas, while still providing reasonable use of the land in the SF-S zoning. The design is reasonable given (a) the overall size of the property, (b) the proposed use of the property, and (c) the challenges of developing the property.

1. The property proposed to be developed is 42,111 square feet. Based on

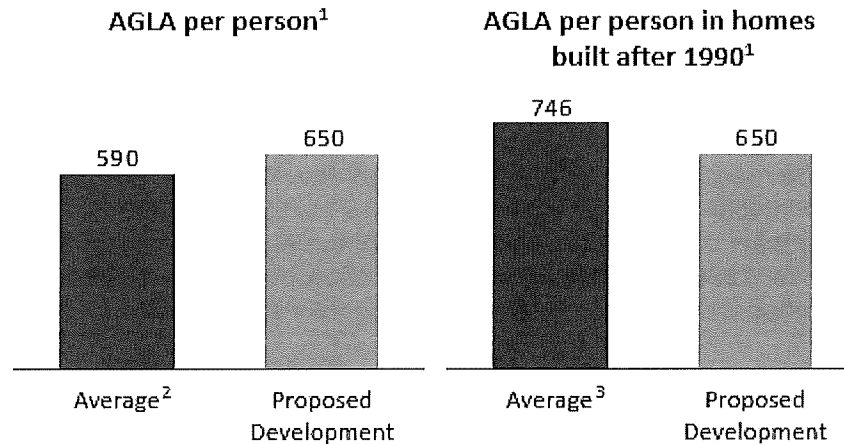
available records per King County and other sources, we are able to compare the % of land use of nearby properties with the proposed developments.

- i. Available data provides data on size of buildings and their relative impact. Combining AGLA (above grade living area), attached garage, deck/porch, and finished basement totals and comparing the surrounding buildings shows the reasonableness of the proposed developments. The average of all homes is heavily weighted by homes built before 1970 which are much smaller and not as representative of the style and size of homes developed after 1990. When compared to all other homes developed after 1990, the proposed development uses significantly less of the land available.



1. Sum of AGLA, deck/porch, attached garage and finished basement divided by total land
2. 25 houses immediately surrounding the proposed development property
3. 8 of 25 houses immediately surrounding the proposed development property

- ii. In addition, the proposed development footprint is similar to a previously approved development footprint (Nyberg - 2013 approval).
2. The City of Issaquah allows for up to a 1000 square foot ADU (Accessory Dwelling Unit) to be built on any property in the Single Family Suburban zoning, and it is the square footage of the proposed ADU (966 square feet) which pushes to total size of the home to 4039 square feet. Without the ADU, this house would be 3073 square feet, well within the median range for newer homes in this zoning. It is not unreasonable to ask that this development include an ADU. The use of the property as a single family home with attached ADU is an efficient use of building space.
3. The development will house a multi-generational family (grandparents, parents, and 2 children). The living area per person is below the average of houses built after 1990 and not materially higher than the total average of the area.



1. AGLA divided by 4 if AGLA >2000ft<sup>2</sup>, divided by 2.54 if <2000ft<sup>2</sup>
2. 25 houses immediately surrounding the proposed development property
3. 8 of 25 houses immediately surrounding the proposed development property

4. Because the proposed property is encumbered with wetlands and wetlands setbacks, the cost and challenge to development the property is significant. A larger building is necessary to spread the one-time, unavoidable development costs out over a larger footprint. The estimated costs of development before building costs are:
  - i. Permits and variances: \$40,000 - \$50,000
  - ii. Impact fees: \$20,000 - \$30,000
  - iii. Wetlands mitigation: \$70,000-\$90,000

The total costs of between \$130,000 and \$170,000 make it difficult and likely untenable to build a smaller house on the property because the total cost per sq. ft would be materially higher than comparable homes in the area.

The proposed buffer impact area (impervious surface and yard) is located solely on a portion of the property which was already cleared and graded years ago by a previous owner, and does not displace any existing native growth.

City: With the recommended conditions of approval, the proposal is the minimum necessary to afford relief. The development footprint of impervious surface is approximately 12% of the total lot area, a relatively small percentage impact compared with surrounding single family homes that typically cover about 40% impervious surface. Also in 2008, the city approved a variance for development on this lot with a similar percentage development footprint.

The development footprint is being further reduced as conditioned above:

1. Eliminate the Pervious Paver Parking of approximately 315 square feet at the north end (already included in the SEPA MDNS);
2. Minimize the paved driveway by reducing the backup space behind the garages to no greater than 24 feet;
3. Reduce the north yard to approximately 10 feet wide from the building to the north NGPE;
4. Reduce the roof overhang from 18" to 15";



5. Provide additional storm water detention measures such as rainwater catchment of approximately 200- 500 gallons;
6. Expand the mitigation area to include enhancement of the wetland at the north end of the site (currently no enhancement is proposed). To the extent there is any open area available to plant natives, supplement this area with native trees at a density no greater than 1 tree every 10' on center and shrubs and/or willow stakes at 6' on center. The specific planting plan shall be determined by a wetland professional and approved by the city prior to construction permit issuance.

***f. That the public interest will suffer no substantial detrimental effect; and***

Applicant: The development of the property will be materially **beneficial** to the public welfare and mark a vast improvement to the property and vicinity where the property is situated. This is mainly due to the massive proposed wetlands improvement.

The property is .97 acres, or 42,111 square feet.

The proposal is to enhance 4483 square feet of wetlands, 21,885 square feet of wetland buffer, and to replace & enhance 568 square feet of additional buffer. Only 7593 square feet of the property will be impacted by the development, with less than 5000 square feet of this impact as impervious surface. When combined with the existing portions of the property which are already native (7582 square feet), **the end result will leave 82% of the property or 8/10 of an acre as native and protected area.**

Currently there are almost 27,000 square feet, or .6 acres of wetlands or wetland setback areas which are lacking in native wetlands vegetation and are overrun with invasive species. All these areas are to be enhanced by removal of invasive species and new plantings and seeding. The improvements are aligned with the public interest in retaining and restoring native wetlands in our communities.

- a) There are Himalayan blackberry bushes which are an invasive species that are a significant risk to continue to spread, not only on the subject property, but to neighboring property and the public spaces to the north. The proposed plan completely eliminates this and other invasive species.
- b) The proposed wetlands mitigation plans call for planting of over 2435 native species comprised of 1,119 trees and shrubs, and 1,316 ground cover plants as designed by the certified biologist. Seeding of native grasses is also proposed. The house, driveway, and yard will be separated from the enhanced areas with a cedar fence. A bond will be posted by the property owners to assure the plantings survive and thrive.
- c) The proposed development is not out of character for the neighborhood, there are many properties developed in the past which have disturbed what are now wetland setback areas, and the proposed development will far exceed any previous buffer improvements on other properties in the immediate neighborhood.
- d) Homes recently built adjacent (South) to the subject property are of similar scale.
- e) Currently, vegetation on the site does not provide as for as much water

absorption as will be provided for by the new plantings; and impervious surfaces will be infiltrated and disbursed by an approved storm drainage system.

Therefore, neighboring properties should be positively impacted by the proposed development.

- f) The home design will include flood vents, such that in the event of a flood, no additional water will be displaced than would occur should the property remain vacant.
- g) The home will not be visible from any major streets or arterials.
- h) The property has obviously been horribly disturbed from what it once was. Without some development, the property will remain as scared land dominated by invasive species.

City: With the proposed development, including the mitigation plan, additional peer review changes, and additional footprint reductions, the public interest will suffer no substantial detrimental effect. The area of the property to be developed is indeed in a degraded state due to compaction, and possible fill, from earlier use. The plantings will greatly increase the functions and values of the buffers and wetland. Stormwater runoff and flooding due to development will be equal or reduced in impact compared with existing conditions.

***g. That the public rights of navigation and use of the shorelines will not be adversely affected***

Applicant: The stream is not navigable, and all surrounding properties are private. Any current public or governmental use, study, or maintenance of the stream would not be impacted by the proposed project any more than would be the case with the surrounding properties.

The nearest corner of the home is approximately 75 feet from the adjacent stream.

There is an existing culvert built over the stream (not by current owner) that is in compliance with regulations and will not need to be modified to safely accept the proposed driveway.

City: The public rights of navigation and use of the shorelines will be unchanged and will not be adversely affected by this development.

***h. That consideration has been given to the cumulative effect of like actions in an area where similar circumstances exist, and whether this cumulative effect would be consistent with shoreline policies or would have substantial adverse effects on the shoreline.***

Applicant: The cumulative effect of the development is beneficial for the area. Between materially improving destroyed and disturbed wetlands and wetland buffers, providing efficient housing development on a per person basis, promoting multi-generational living, and fitting within the recent development standards area, the proposal attempts to improve the surrounding area. It also attempts to minimally impact the adjacent stream, wetlands, wetland buffers, and neighbors.

City: Within this neighborhood, there are many legally created and developed lots

SHO18-00001 Wolfe Residence Shoreline Variance

prior to adoption of the City's Critical Areas Regulations in the early 1990's. Development prior to the 1990's included little, if any, mitigation for environmental impacts. Most of the neighborhood is built out, but some of the lots remain undeveloped, including this lot, and two lots to the southeast. These undeveloped lots if impacted by critical areas, including wetlands, streams, and/or flood hazard will require similar enhancement to mitigate for environmental impacts.

The potential development of these lots has been considered, first with the approval of the Comprehensive Plan that designated these lots for potential development of single family residences, and second through mitigation such as with enhancement or creation of critical areas. In addition, impacts on transportation, utilities and public facilities were evaluated in the environmental review of the City's buildout per the Comprehensive Plan.

**D. Accessory Dwelling Unit**

The proposed Accessory Dwelling Unit must comply with the requirements of IMC 18.07.450. In May 2018, the ADU regulations were revised by the City Council. The analysis below evaluates the proposal against these new regulations and concludes the proposal is in compliance with the ADU regulations.

1. Location: The ADU is located in the SF-S zone that permits ADU's.
2. Number: Only 1 ADU is proposed and only one ADU is permitted on one property.
3. Occupancy: The ADU must be occupied by an owner of the property or a family member of the property and the owner must file an affidavit with the King County Department of Records and Elections reflecting this. This is a condition of approval.
4. Size: The ADU must not exceed 1,000 square feet and the ADU is proposed to be 966 square feet.
5. Design: The ADU must meet design and construction standards and it conceptually does now and will specifically do so upon construction permit approval.
6. Parking: One (1) parking stall in addition to the two (2) stalls for the single family home must be provided. Three stalls are shown on the plans.
7. Home Occupations and ADU's: Both are permitted however no mention of a home occupation is made at this time.



David Favour, Counter Services Manager



Date

**EXHIBIT LIST:**

1. File Application, SHO18-00001
2. Site Plans, received 9-14-2017
3. Civil Site Plan, received 9-14-2017
4. Drainage Report, received 9-14-2017
5. Geotechnical Report, received 9-14-2017
6. SEPA Environmental Checklist, received 9-14-2017.

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7. Wetland & Stream Analysis, Altmann & Oliver, received 9-14-2017
8. Revised Mitigation Plans, Altmann & Oliver, received 3-9-2018
9. Critical Areas Peer Review Report, Watershed Company, received 5-14-2018
10. Nyberg Culvert Replacement WDFW Hydraulic Project Approval dated October 11, 2011
11. Notice of Application, dated 3-2-2018
12. Legal Notice of Application, dated 3-2-2018
13. Public Comments, several dates
14. SEPA MDNS, dated 7-6-2018

**APPEALS:**

An appeal of this Shoreline Variance Permit (Level 2) must be filed with the Development Services Department Permit Center within 14 days of this notice of decision, by 5:00 PM on October 9, 2018. A letter of appeal shall include the reason for the appeal and a \$750 filing fee, which is required of appeals.